Interagency BDCP Meeting Summary & Action Items

Basic Information:

- September 9, 2014; 1:00 – 4:00 PM, Sonoma Room, 650 Capitol Mall, Sacramento CA
- Meeting Purpose: Discuss EPA Region 9 NEPA Comments on the BDCP DEIS
- Agencies in attendance: USEPA, NMFS, USFWS, BOR, DOI (phone), CA DWR, CA DFW, CA State Water Board, ICF International, RBI, & CH2MHill

EPA Main Points (notes bulleted below)

1. EPA will rate each CM1 alternative if a preferred alternative is not identified.
2. EPA will conduct its NEPA review and rating relative to *existing* water quality standards and other environmental regulations.
    - The CM1 operational scenarios were modeled to meet *desired* water quality standards not the *existing* water quality standards.[1] The example discussed at length in our meeting is moving the Emmaton electrical conductivity standard compliance point to Three Mile Slough. The DEIS shows that water quality changes resulting from CM1 operations will increase violations of water quality standards at Emmaton and other locations.
    - DWR has not decided whether or not to re-run water quality models using existing standards for the CM1 alternatives.
    - If water quality models are not run again using existing standards, the quantitative information available will still show CM1 operational alternatives violating water quality standards and the NEPA rating for the Supplemental will be based (in part) on this information, unchanged from the DEIS.
3. The DEIS shows that CM1 alternatives will degrade water quality for agriculture, municipal, aquatic life, aquatic habitat, and wildlife beneficial uses at some locations in the Delta and Suisun Bay and improve quality exported out of the Delta for agriculture and municipal uses.
4. The DEIS does not provide reliable certainty that estimated benefits from CMs2-22 will materialize or be large enough to compensate for CM1 adverse effects to water quality and aquatic life. The NEPA review and rating of the SDEIS will incorporate the higher certainty of estimated impacts and benefits from the project-level analysis for CM1 and the much less certain impacts and benefits estimated to result from the programmatic analysis of CMs 2-22.
    - The fish and aquatic life analyses presented in the DEIS and HCP rely on less certain benefits from programmatic conservation measures to eliminate, reduce, or generate net positive impacts on covered species that result from more certain negative impacts from the project-level CM1 analysis.
    - Benefits from BDCP actions that are used to reduce adverse impacts of CM1 should be relatively equitable in terms of certainty and include more specificity and precision than the DEIS contains. This can be achieved in many ways, including but not limited to: increasing precision terms in the Adaptive Management Plan, Adaptive Limits, and Conservation Measures 2-22. Precision terms include thresholds, decision rules, and trigger points specific

[1] This also applies to implementation of the export limits standard, called the Import/Export ratio ("I/E" ratio). Link to board's comment.

to individual species and habitat.

5. The SDEIS should include additional explanations and analyses that support decision-making:
   - Explicitly state the BDCP proposal that adding new water intakes plus habitat restoration without increasing freshwater flow through the Delta will be sufficient for protecting T & E species and meet the requirements of ESA. Provide scientific and/or technical support for this proposal and discuss why it is substantially different than broad groups of scientists that support increasing freshwater flows and habitat restoration for restoring protection to native and migratory fish species.
   - Methods for fish species NEPA effects determinations should be clearly described and equitably applied across alternatives so that the reason for a certain NEPA effects determination is clear and repeatable.
   - Evaluate compliance with all water quality standards including standards listed in Table 3 of the Bay-Delta WQCP.
   - Evaluate monthly average X2 location for all the alternatives and baselines and compare the results as a broad ecosystem indicator of estuarine habitat changes relative to the baselines
   - Provide a description of predictive accuracy of project-level water quality and water supply analyses that use programmatic inputs to modeling tools. For example, the assumed distribution of tidal and floodplain restoration areas is unlikely to be the actual distribution of restoration areas and they are unlikely to be 100% successful. A different pattern of restoration sites and different magnitude and effectiveness of restoration areas can substantially impact tidal fluctuation, open water aquatic habitat, EC & Chloride water quality and allowable exports.
   - Compare project impacts and benefits among all the alternatives.
6. The BDCP is moving forward parallel to modifications to water quality standards in the State Water Board's Bay-Delta Water Quality Control Plan and other pending changes to water quality standards (e.g., selenium). The State Water Board changes are likely to impact required outflow through the Delta and allowable diversions, including CVP/SWP exports, from the Sacramento-San Joaquin Delta.
7. EPA is concerned about lack of information in the DEIS on mercury.
   - Project Proponent said some of this info may be in HCP.
   - EPA concerned about relying on estimated benefits to fish populations if only a fraction of the proposed floodplain restoration can proceed due to lack of effective tools to minimize formation and transport of MeHg.
   - TBD what if any additional analyses may be done.
8. EPA is concerned that combination of increased residence time and potential increase in relative contribution of SJ water to the Delta could increase Selenium load and exposure to sensitive fishes and wildlife.
   - There seemed to be agreement that this presented a difficult question from a technical analysis/modelling standpoint.
   - This was the only area where I heard an agreement to form a technical committee to try to figure out how to predict potential impact from Se.

Action Items:

1. USEPA to share presentation file with the group.
2. Establish technical teams to address:
   - increases in violations of CWA water quality standards
   - including an analysis of all water quality standards in the SDEIS
   - aquatic life analysis and NEPA effects determinations
   - year-round X2 analysis
   - comparing impacts among alternatives
3. Staff to meet with lead agencies to discuss each EPA comment individually and identify resolution paths. This exercise will identify a finer level of detail to the areas of agreement and disagreement.
4. Senior managers to continue discussions (EPA, NMFS, BOR, FWS, DWR, DFW)

What are Agreements & Disagreements? (to be identified in subsequent meetings??)